

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BRYAN O. BLEVINS, JR. AND §
SHELLEY BLEVINS §
§
vs. § CIVIL ACTION NO. _____
§
STATE FARM FIRE & CASUALTY §
COMPANY, MICHAEL BLANK §
AND SHELEVIA RAQUEL PROCTOR §

DEFENDANT'S NOTICE OF REMOVAL

Defendant Shelevia Raquel Proctor files this Notice of Removal, because diversity of citizenship jurisdiction exists under 28 U.S.C. § 1332.

PROCEDURAL BACKGROUND

1. On August 23, 2019, Bryan O. Blevins, Jr. and Shelley Blevins filed Plaintiffs' Original Petition against State Farm Fire & Casualty Company, Michael Blank and Shelevia Raquel Proctor in Cause No. E-0204355 in the 172nd Judicial District Court of Jefferson County, Texas. On October 2, 2019, Bryan O. Blevins, Jr. and Shelley Blevins filed Plaintiffs' First Amended Petition effectively dismissing State Farm Fire & Casualty Company and adding State Farm Lloyds as an additional Defendant.
2. Shelevia Raquel Proctor was served with Citation and a copy of Plaintiffs' Original Petition on September 23, 2019. The statutory deadline to remove this action under 28 U.S.C § 1446(b)(1) is 30 days after Defendant's receipt of the initial pleading, in this case, October 23, 2019. Michael Blank and State Farm Lloyds have not been served at the time of this filing.
3. Shelevia Raquel Proctor timely files this Notice of Removal under 28 U.S.C. § 1446, to remove the State Court Action from the 172nd Judicial District Court of

Jefferson County, Texas, to the U.S. District Court for the Eastern District of Texas, Beaumont Division.

4. Shelevia Raquel Proctor filed her Original Answer on October 7, 2019.
5. Plaintiffs' Original Petition filed in the State Court Action included a jury demand and indicates that the jury fee has been tendered.

NATURE OF THE SUIT

6. This lawsuit involves a dispute over the handling and alleged under-payment of Plaintiffs' claim for damages allegedly caused by Hurricane Harvey on or about August 29, 2017.¹ Plaintiffs assert causes of action against State Farm Lloyds, Michael Blank and Shelevia Raquel Proctor for: (1) breach of the insurance contract; (2) violations of the Prompt Payment of Claims Act; and (3) violations of the Texas Insurance Code.²

BASIS FOR REMOVAL

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

A. Diversity of the Parties

8. Removal is proper because there is and was complete diversity between the parties under 28 U.S.C. § 1332 both at the time of the filing of Plaintiffs' Original Petition and at the time of its removal to this Court.

9. Plaintiffs were, at the time of filing this lawsuit, and still are, citizens of Jefferson County, Texas, and reside in Jefferson County, Texas.³

¹ Plaintiffs' First Amended Petition

² *Id.*

³ *Id.*

10. State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyds Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes.⁴

11. Shelevia Raquel Proctor was at the time this action was commenced, and still is, a citizen of Dallas, Georgia.

12. Michael Blank, was at the time this action was commenced, and still is, a citizen of Baton Rouge, Louisiana.

13. Shelevia Raquel Proctor and Michael Blank have consented to this removal.

B. Amount in Controversy

14. The value of the matter in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiffs' Petition further seeks damages of any kind, penalties, costs, expenses, pre-judgment and post-judgment interest, and attorneys' fees.⁵

REMOVAL IS PROCEDURALLY CORRECT

15. Defendant Shelevia Raquel Proctor was served with process on September 23, 2019, and has entered an appearance in the State Court Action. Therefore, defendant filed this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

16. Venue is proper in this division under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

17. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and

⁴ See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

⁵ Plaintiffs' First Amended Petition

orders served upon Shelevia Raquel Proctor in the State Court Action are attached to this notice as Exhibit B.

18. Additionally, all documents required by Local Rule 81 to be filed with this Notice of Removal are attached and indexed.

19. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 172nd Judicial District Court of Jefferson County, Texas.

ATTACHMENTS

20. Pursuant to 28 U.S.C. § 1446(a), Local Rule 3, and Local Rule 81, the following exhibits are attached hereto and incorporated herein by reference for all purposes:

- a. Exhibit A: Certified copy of the state court docket sheet;
- b. Exhibit B: Index and copies of pleadings, answers, processes and orders;
- c. Exhibit C: List of parties and counsel;
- d. Exhibit D: Record of parties requesting trial by jury; and
- e. Exhibit E: Statement regarding case status.

JURY DEMAND

21. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Shelevia Raquel Proctor demands a trial by jury.

PRAYER

22. Defendant respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. Defendant also requests any additional relief to which it may be entitled.

Respectfully submitted,

ORGAIN BELL & TUCKER, LLP
560 South Fourth Street
Silsbee, Texas 77656
Telephone: (409) 386-0386
Facsimile: (409) 386-0900

By /s/ Donean Surratt

David J. Fisher
Texas Bar No. 07049525
[E-mail: djf@obt.com](mailto:djf@obt.com)
Donean Surratt
Texas Bar No. 01720400
[E-mail: sds@obt.com](mailto:sds@obt.com)

**ATTORNEYS FOR DEFENDANT,
SHELEVIA RAQUEL PROCTOR**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was duly served upon counsel of record by electronic service on October 9, 2019, as follows:

Mike Ramsey
Katherine D. Ramsey
Randal Cashiola
Ramsey Law
6280 Delaware St., Ste. A
Beaumont, Texas 77706
ramseydocket@ramseylaw.com

/s/ Donean Surratt
Donean Surratt